

MANDATE

N.Y.S.D. Case #
12-cv-8030(VB)

13-2074-bk

In Re: Hoti Enterprises, L.P.

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 25th day of March, two thousand fourteen.

PRESENT: RICHARD C. WESLEY,
DEBRA ANN LIVINGSTON,
RAYMOND J. LOHIER, Jr.,
Circuit Judges.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: April 17, 2014

IN RE: HOTI ENTERPRISES L.P.

HOTI ENTERPRISES, L.P., HOTI REALTY MANAGEMENT CO., INC.,

Debtors - Appellants,

-v.-

No. 13-2074-bk

GECMC 2007-C1 BURNETT STREET, LLC,

Creditor - Appellee.

MANDATE ISSUED ON 04/17/2014

FOR APPELLANTS: Mark Frankel, Backenroth Frankel & Krinsky LLP, New York, NY.

FOR APPELLEE: George B. South, III, Daniel G. Egan, DLA Piper LLP, New York, NY.

Appeal from the United States District Court for the Southern District of New York (Vincent L. Briccetti, Judge).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED,

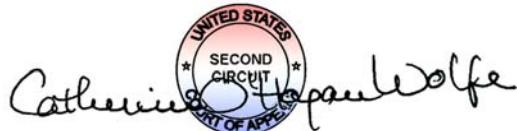
ADJUDGED AND DECREED that the judgment of the district court be and hereby is **AFFIRMED**.

Debtors-Appellants Hoti Enterprises and Hoti Realty Management appeal the judgment of the district court affirming the bankruptcy court's confirmation of its Chapter 11 plan. Appellants primarily argue that the bankruptcy court should have given preclusive effect to an earlier state court judgment. We agree with the district court and the bankruptcy court that the state court judgment did not preclude confirmation of the plan.¹

¹ Indeed, the state court judgment on which Hoti presses its *res judicata* argument was reversed at the Appellate Division. *GECMC 2007-C1 Burnett St., LLC v. Hoti Enters, L.P.*, ___ N.Y.S.2d ___, 2014 WL 840400 (2d Dep't Mar. 5, 2014).

For the foregoing reasons, the judgment of the district court is **AFFIRMED** with costs.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



Catherine O'Hagan Wolfe

The image shows a handwritten signature of "Catherine O'Hagan Wolfe" written over a circular official seal. The seal is divided into three horizontal sections: the top section is red with the words "UNITED STATES" in white; the middle section is blue with the words "SECOND CIRCUIT" in white; and the bottom section is white with the words "COURT OF APPEALS" in blue. The signature is written in black ink across the center of the seal.

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit



Catherine O'Hagan Wolfe

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